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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,898	12/02/2003	Michael Wawrzynowski	826-03091201	4171
25864	7590	01/31/2005	EXAMINER	
CHARLES C.H. WU 98 DISCOVERY IRVINE, CA 92618-3105			LUONG, SHIAN TINH NHAN	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/726,898	Applicant(s) WAWRZYNOWSKI, MICHAEL	
	Examiner Shian T. Luong	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Claim Rejections - 35 USC § 112

1. Claims 6, 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 6, the phrase “the first, second and third pivot axes are in triangle type closed loop combination” renders the claim indefinite. The axes do not appear to be in a triangle closed loop nor are they within a triangular closed loop. Applicant’s clarification is required to indicate the closed loop configuration. The term “the center” lacks proper antecedent basis.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-~~6~~,8-10,12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Belden, Jr. (US 6,412,631). Belden.Jr. discloses an apparatus for holding a compact disk having a central hole comprising a body portion with at least three arms 70 each extending radially inward from a distal end connected to the body portion to an engageable end 125 receivable within the central hole, the engageable end having at least one extension member connected to the body portion; and wherein each of the arms has a first pivot axis 86 positioned substantially the distal end, second pivot axis 102 positioned substantially at the extension member, and a third pivot axis 92 positioned in between the first and second pivot axes.

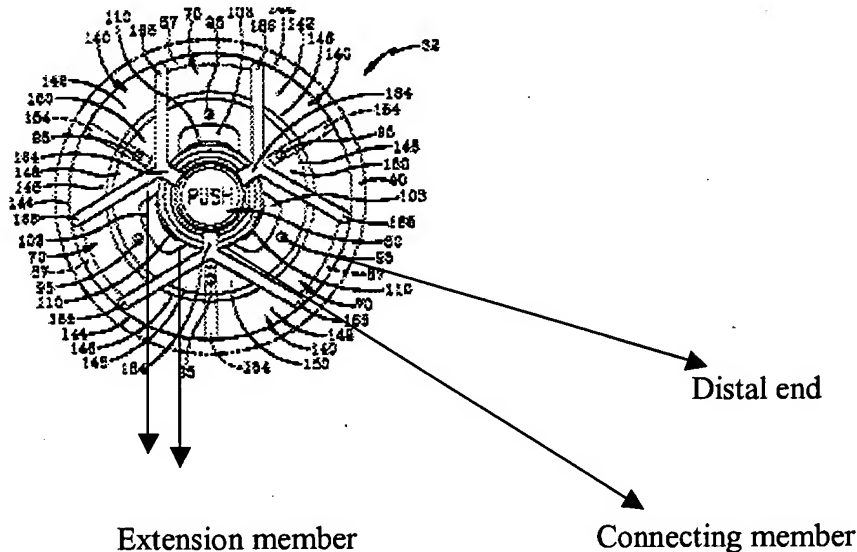
With respect to claim 2, wherein each engageable end further comprises at least one lip

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With respect to claim 12, the arms provide support to the bottom surface of the disk when the disk is in the locking position, the arms not being contact with the information-carrying portion of the disk.

With respect to claim 13, the body portion further comprises a connecting member for connection to each extension member, each extension member and connecting member being pivotally attached at the second pivot axis.

With respect to claim 14, the connecting member is elevated from the body portion.



Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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110 securing a top surface of the disk when in a disk-locking position.

With respect to claim 3, the body portion has a gap 166 positioned around each arm allowing the arms to pivot about the first, second and third axes without contacting the body portion.

With respect to claim 4, further comprising a disk-receiving portion 12 and a cover portion 14 that move relative to each other via hinged region 18 to form an enclosure around the disk, the body portion being positioned within the disk-receiving portion.

With respect to claim 5, first, second and third pivot axes have first vertical plane that positioned towards the central hole of the disk and away from a second vertical plane created contact points when the cover portion is pressed against the engageable portions. Applicant has not positively claimed the pressing motion.

With respect to claim 6, inasmuch as the examiner can interpret the limitation in claim 6, the axes are within the substantially triangular shaped arms.

With respect to claim 8, wherein the engageable ends form pie-shaped engageable region receivable within the central hole of the disk.

With respect to claim 9, the disk can be removed from the disk-locking position by application of pressure to the center of the pie-shaped engageable region (column 9, lines 18-42).

With respect to claim 10, when the pressure is applied to the center of the pie-shaped engageable region, a bounded region of the lips decreases to size less than circumference of the central hole of the disk.

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5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belden, Jr. in view of Marsilio et al. (US 6,779,659). Belden, Jr. discloses generally all of the limitations of the claims, but failed to provide separated ridges. It has a continuous ridge 42 with a support surface that does not contact an information-carrying portion of the disk. Although it is continuous, the ridge could certainly be separated to save material cost. Marsilio et al shows the configuration of the separation. It would therefore been obvious to provide the individual ridge for Belden, Jr. to save material.

Allowable Subject Matter

6. Claim 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

7. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08. The **Group clerical receptionist number is (703) 308-1148.**


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If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Donna Monroe at (703) 308-2209.

For applicant's convenience, the official FAX number is (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST.

STL
January 28, 2005


Primary Examiner
Shian Luong
Art Unit 3728